

Remarks/Arguments

The present amendment is made in response to the Office Action dated May 24, 2004 and identified as Paper No. 4. Claims 2-6 remain pending in the application.

In the Action, the Examiner objected to claim 3 because of an informality in language. Claim 1 was rejected as anticipated by U.S. Patent No. 6,010,067 to Elbaum ("*Elbaum*"). Claims 2, 3, 5, and 6 were rejected as obvious in view of *Elbaum* and U.S. Patent No. 5,903,835 to Dent ("*Dent*"). Claim 4 was rejected as obvious in view of *Elbaum*, *Dent* and U.S. Patent No. 5,444,616 to Nair et al. ("*Nair*") and claim 5 was rejected as obvious in view of *Elbaum*, *Dent*, and U.S. Patent No. 5,408,513 to Busch et al. ("*Busch*").

Applicant has cancelled claim 1.

Claims 3, 5 and 6 have been amended to make stylistic and/or typographical changes.

With regard to the rejection of claims 2, 3, 5 and 6, the combination of *Elbaum* and *Dent* proposed by the Examiner does not form a *prima facie* case of obviousness under 35 U.S.C. § 103(a). First, *Dent* requires a home base station that receives data from a cellular telephone and then relays the data via a wire interface to a satellite communications adapter which then communicates via satellite. The proposed combination thus does not include a wireless transceiver which communicates data via satellite link from essentially any location in the world, as affirmatively recited in the claims. Although the combination proposed by the Examiner would include the portable equipment of *Elbaum*, the system would nevertheless be limited by the home base relay required by the system of *Dent*, and thus would not allow freedom of use beyond that of a conventional cellular network. As a result, the proposed combination does not contain each and every limitation of the claims as required for a proper obviousness rejection. See MPEP § 2143.03 ("To establish *prima facie* obviousness of a claimed invention, all the claim

limitations must be taught or suggested by the prior art”) (citing *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974)).

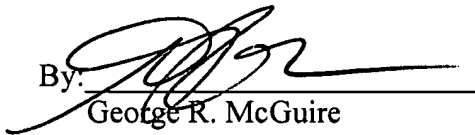
Second, the Examiner failed to identify a suggestion or motivation in the prior art to make the combination of *Elbaum* and *Dent*, as required for a proper obviousness rejection. See MPEP § 2143.01. As neither *Dent* nor *Elbaum* suggest the use of a satellite transceiver to directly transmit check or credit card data from essentially anywhere in the world, the Examiner’s reliance on the recited global capabilities of the claimed invention as motivation for the combination of the cited prior art comprises improper hindsight analysis. See MPEP § 2142 (“The tendency to resort to ‘hindsight’ based upon applicant’s disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.”).

With regard to claims 3, 4, 5 and 6, these claims depend directly or indirectly from claim 2 and are therefore believed to be patentable.

In view of the foregoing amendments, the Examiner’s reconsideration is requested and allowance of the present application is believed to be in order. If the Examiner believes a phone conference with Applicant’s attorney would expedite prosecution of this application, she is respectfully requested to contact him at (315) 218-8515.

Respectfully submitted,

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